

Filed 7/15/19 In re D.T. CA2/6

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.
---

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re D.T. et al., Persons Coming  
Under the Juvenile Court Law.

2d Juv. No. B295065  
Super. Ct. No. 18JD-00144)  
(San Luis Obispo County)

SAN LUIS OBISPO COUNTY  
DEPARTMENT OF SOCIAL  
SERVICES,

Plaintiff and Respondent,

v.

T.G.,

Defendant and Appellant.

T.G., the estranged mother of four abused and neglected children, appeals a juvenile court order terminating her parental rights to three of the children, D.T (9 years old), G.T. (8 years old) and J.M.T. (7 years old) (adoptive siblings) who are

adoptable. (Welf. & Inst. Code, § 366.26.)<sup>1</sup> The trial court found that the fourth child, J.T. (7 years old, J.M.T.'s twin brother), was not adoptable due to extreme behavioral issues, and that the sibling relationship exception (§ 366.26, subd. (c)(1)(B)(v)) did not preclude termination of parental rights to free the three adoptive siblings for adoption. We affirm.

*Factual and Procedural History*

On April 25, 2018, San Luis County Department of Social Services (DSS) filed a petition alleging that the children were at risk of harm after the presumed father (S.T.) assaulted the paternal grandmother while under the influence of drugs. (§ 300, subds. (b) & (g).) Father was in jail on assault and drug charges. Appellant had not seen the children in two years, suffered from substance abuse problems, and could not care for the children because she could not obtain suitable housing. The children reported that appellant had forced them to engage in inappropriate sexual touching and that they had been physically abused by appellant, father, and the paternal grandmother. Before the petition was filed, there were 46 referrals and two prior dependency proceedings.

The trial court sustained the petition, declared the children dependents, placed them in foster care, and bypassed reunification services based on appellant's failure to comply with drug treatment and previously reunify with a sibling or half sibling. (§ 361.5, subd. (b)(10), (13).) The two older siblings (D.T. and G.T.) were placed in their current foster home, and the twins, J.T. and J.M.T., were separated from each other for almost a

---

<sup>1</sup> All statutory references are to the Welfare and Institutions Code.

month. In September 2018, all four children were reunited and living in the same foster home.

Each child had anxiety issues but J.T.'s mental health and behavioral problems were significant. J.T. refused to do schoolwork and yelled at and threatened teachers and other students. He had speech and hearing impairments, and engaged in bullying behaviors.

In November 2018, DSS reported that J.T. was extremely anxious and unable to control his behavior. At school, he screamed obscenities, overturned desks, tried to break doors and windows, kicked and spit on the principal, hit himself, and assaulted peers and adults. On one occasion, he stabbed a child with a pencil, and on another occasion, threatened police officers with a stick. The school had to evacuate the classroom five times due to J.T.'s behaviors and suspended J.T. almost every week. Other children were afraid of him and J.T. appeared to show no empathy or remorse when he hurt someone. It had an emotional toll on the adoptive siblings who attended the same school and suffered anxiety attacks when J.T. acted out. J.T. was prescribed psychotropic medication and showed some improvement but was defiant, verbally aggressive, and sexually inappropriate with others. He threatened to stab the family dog and had screwdrivers that he stole from the foster mother's adult son. It caused the three adoptive siblings to distance themselves from J.T., which only made J.T. more dysfunctional.

At the section 366.26 hearing, DSS recommended that D.T., G.T., and J.M.T. be adopted by their foster parents. The foster parents were willing to try everything available to keep J.T. in their home with the long-term goal of adoption. If J.T. had to be placed in a different home due to behavioral

problems, the foster parents agreed to maintain sibling contact with J.T. The foster parents were committed to keep the children together as long as J.T. did not hurt a family member or pet. Robyn Yakush, an expert in social work and adoptions, opined that the DSS proposal was in the best interests of the children and that the adoptive siblings should be freed for adoption. Although it would affect the siblings' relationship with J.T. it did not outweigh the benefits of adoption.

The trial court found that three adoptive siblings were adoptable but that J.T. was not adoptable due to his extreme behaviors. It ordered that J.T. stay in the foster home pursuant to the DSS permanent planned living arrangement. In the event J.T. had to be moved to a different home to receive a greater level of care, DSS was ordered to provide visitation.

#### *Sibling Relationship Exception*

Appellant contends that the trial court erred in terminating parental rights because it affects a significant sibling relationship between the adoptive siblings and J.T. On review, we apply the substantial evidence standard of review to the trial court's factual findings regarding the applicability of the sibling relationship exception, and the abuse of discretion standard to the trial court's weighing of competing interests. (*In re Isaiah S.* (2016) 5 Cal.App.5th 428, 438.)

Adoption, where possible, is the preferred permanent plan. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 573.) Section 366.26, subdivision (c)(1)(B)(v) provides an exception to the adoption preference when the juvenile court finds that termination of parental rights would be detrimental to the adoptive child because "[t]here would be substantial interference with a child's sibling relationship, taking into consideration the

nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption.' [Citation.]" (*In re Celine R.* (2003) 31 Cal.4th 45, 54.) The sibling relationship exception only applies when the trial court determines there is a ""compelling reason"" for concluding that the termination of parental rights would be ""detrimental"" to the adoptive child due to ""substantial interference"" with a sibling relationship. (*Id.* at p. 61.)

The focus here is whether adoption would be detrimental to the adoptive siblings, not J.T. (*In re Celine, supra*, 31 Cal.4th at p. 54.) If the trial court determines that the termination of parental rights will substantially interfere with the adoptive child's sibling relationship, it must "weigh the child's best interest in continuing that sibling relationship against the benefit the child would receive by the permanency of adoption. [Citation.]" (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 952.)

Appellant argues that the adoptive siblings and J.T. have a significant relationship because the children were raised in the same home and shared common traumatic experiences. All four children suffered a lot of anxiety, but J.T. exhibited extreme behaviors which intensified the adoptive siblings' anxiety and caused them to fear they would lose their foster parents. D.T.'s therapist identified J.T. as a "trauma trigger" and reported that the adoptive siblings were more anxious when J.T. misbehaved at

school.<sup>2</sup> Despite J.T.'s behavioral problems, the foster parents agreed to care for J.T. if his current behavior was maintained and he did not hurt a family member or house pet.

Appellant argues that maintaining the sibling relationship serves as an “anchor” for the children because their lives are in turmoil. (See *In re Erik P.* (2002) 104 Cal.App.4th 395, 404.) But that is not really the case here. Before J.T. was placed with the adoptive siblings, there were no separation issues. The sibling relationship did not change after the children were reunited in their current foster home. J.M.T. distanced herself from J.T. and played with her older siblings. D.T. and G.T. had a bonded, twin-like relationship, but not J.T. and J.M.T. The trial court found that “the sibling dynamics . . . are not [what] one would expect between twins; in fact, you don’t get a twin effect as between [J.T.] and [J.M.T.]”

Adoption social worker Yakush stated that the adoptive siblings play without J.T. “[I]t’s almost never the four of them, and if it is, something happens usually with [J.T.] where he gets mad, he gets angry, and then the other three don’t want to play with him” which makes him more angry. “[I]t’s just a cycle, so it pushes them even further away where they don’t want to play with him.”

Yakush stated that “[J.T.] had a huge blowup [and] meltdown at school” before the section 366.26 hearing. “[H]e had

---

<sup>2</sup> D.T. would make a loud throat clearing/snorting sound that she could not control. G.T. became defiant and controlling and D.T. and G.T. would melt down if separated for any amount of time. J.M.T. would become physically ill, suffer nausea and stomach aches, and break out with red blotches on her skin. J.M.T. oftentimes felt overwhelmed and suffered from intense nightmares and sleepwalking.

the entire school on lockdown. He had a huge stick, he was threatening police officers. Once the foster mom came to pick him up she got him in the car and he picked up a heavy mug and was going to hit her in the head with it.” The adoptive siblings were very upset that J.T. would try to hurt their foster mom and said “it was maybe time he went somewhere else.”

The foster parents’ commitment to keep the adoptive siblings and J.T. together is an important factor in finding that the termination of parental rights would not substantially interfere with the sibling relationships and be detrimental to the adoptive siblings. The foster parents are committed to helping the children maintain their sibling relationship even if J.T. has to be moved. (See, e.g., *In re Isaiah S.*, *supra*, 5 Cal.App.5th at p. 438 [adoption did not sever sibling relationship where foster mother housing both children was committed to maintaining sibling contact, even if non-adopted sibling had to be moved].) And there is no evidence that selection of a lesser preferred permanency plan will provide the adoptive siblings the security and sense of belonging that only an adoptive home can provide. (*In re Valeria A.* (2007) 152 Cal.App.4th 987, 1014.) The adoptive siblings are bonded to their foster parents, want to be adopted, call their foster mother “Mom,” and want to stay in the foster home “forever.”

Appellant presented no evidence that preserving her parental rights would facilitate the adoptive siblings’ relationship with J.T. Like *In re Isaiah S.*, *supra*, 5 Cal.App.5th 428, the benefits of adoption clearly outweigh the possible detriment of severing the siblings’ relationship with J.T. (*Id.* at pp. 438-439.) Rather than break up the children, the section 366.26 order provides the best of both worlds -- a permanent and stable home

for the adoptive siblings, and for J.T., a planned living arrangement in the same home with the goal of adoption. The trial court did not abuse its discretion in terminating parental rights and freeing the adoptive siblings for adoption. Application of the sibling relationship exception is “rare, particularly when the proceedings concern young children whose needs for a competent, caring and stable parent are paramount.” (*In re Valerie A.*, *supra*, 152 Cal.App.4th at p. 1014.)

*Disposition*

The judgment is affirmed.

NOT TO BE PUBLISHED.

YEGAN, J.

We concur:

GILBERT, P. J.

PERREN, J.



Charles S. Crandall, Judge

Superior Court County of San Luis Obispo

---

William Hook, under appointment by the Court of Appeal  
for Defendant and Appellant.

Rita L. Neal, County Counsel, Jenna Morton, Deputy  
County Counsel for Plaintiff and Respondent.